

**Washington County Land Use Authority Meeting
October 08, 2013**

The Washington County Land Use Authority Meeting was held Tuesday, October 08, 2013 in the Council Chambers of the Washington County Administration Building located at 197 E. Tabernacle, St. George, UT. The meeting was convened by Chairman Doug Wilson at 1:30 p.m. He led the Pledge of Allegiance, after which, he explained meeting protocol.

Commissioners present: JoAnn Balen, Dave Everett, Kim Ford, Rick Jones, Mike Stucki, and Julie Cropper.

Excused: Deborah Christopher.

Staff present: Scott Messel, Planning & Zoning Administrator; Eric Clarke, Deputy Attorney; Kurt Gardner, Building Official; Dean Cox, County Administrator; Doreen Bowers-Irons, Planning Secretary.

I. CONDITIONAL USE PERMIT EXTENSION. Review request to install a proposed 100' lattice tower within the RA-1 zone on land owned by Theresa Haury (Robert Tripp), in Veyo. Parcel 7140-A-1-N-NW. The applicant is Intellisites LLC/Debbie Depompei.

Mr. Messel reported the applicant, Intellisites LLC/Debbie DePompei, has requested an extension of the conditional use permit for the telecommunication tower site located on a portion of Parcel 7140-A-1-N-NW. The applicant will be leasing the site from Robert Tripp who is the property owner. The applicant is working on securing a major tenant for the site. Construction will begin once a tenant is secured. The proposed 30'x40' site will be fenced and have a double swing gate for access on the south side of the enclosure. The site will include a 100' lattice tower. The applicant has requested a two year extension of the conditional use. However, staff feels that a yearly review would allow Staff and the Planning Commission to stay more informed on the status of the site and therefore the review should remain one year.

Recommendation:

Staff has reviewed and recommends the Planning Commission approve the conditional use permit extension for the telecommunication facility for 1 year based on the following findings:

1. The request has been previously approved.
2. The site meets 10-21 Wireless Telecommunication Facilities chapter of Washington County Code.
3. Public Utilities are a conditional use in the RA-1 zone.

Commissioner Ford stated the site looks different. He asked why the site was rectangle, Mr. Messel explained the reason it looks different has to do with the shape of the parcel and the pictometry images, which can look somewhat distorted.

Commissioner Balen asked about the fall zone and how close the tower would be to the house on the property and if it could fall on the road. Commissioner Stucki stated unless there have been changes to the original request and where the pad was located, the fall zone was ok. Commissioner Balen stated that it looks different now. Commissioner Ford concurred. Mr. Messel stated there have been no changes. The imagery may be distorted based on the photograph being shown. He explained the property and the fall zone distances.

A short discussion regarding the "fall zone" and the buildings on project property took place. It was determined the "fall zone" was adequate.

Commissioner Stucki asked for a copy of the original request information. Mr. Messel read the motion from the 2012 minutes meeting and a copy of the packet containing minutes dating back to 2009 was provided for the commission to review.

Debbie DePompei, representing Intellisites Towers stated she brought some pictures of the building which she passed to the commission. She explained why the tower would be 100' due to the fact that the tower would be set in a portion of land below the ridge on the property; therefore, it is lower than other areas of the parcel. She explained how Intellisites acquired the project which was originally approved under Atlas Towers.

Commissioner Everett clarified the conditional use permit requests are being given on the land. Mr. Messel explained the reason this was under the applicants name and not the owners, which was done previously under the lessee of the property. In the future, the property owners will be signing the permits and the property will be granted the conditional use permit not the lessee. We are in transition for new and old conditional use permits and who is the applicant.

Chairman Wilson stated this item was previously approved and since there are no changes he asked the commission to approve the findings, which he read. He asked about adding the "fall zone" to the conditions. Commissioner Stucki stated according to the original approval and subsequent approvals after, the fall zone is not an issue and does not need to be included.

MOTION: Chairman Wilson called for a vote to approve the three findings discussed and not adding anything regarding the fall zone. Motion carried with all six (6) Commissioners voting in favor.

Chairman Wilson then called for a motion.

Commissioner Stucki moved for point of clarification. The applicant has requested a two year extension; however, according to 10-18-7, the extension cannot be granted for more than one year unless that has been changed. Mr. Clarke stated it was not changed.

Mr. Clarke explained to the applicants that once construction is completed on the project, the conditional use permit would be come permanent.

MOTION: Commissioner Ford MOVED to approve the conditional use permit extension request to install a proposed 100' lattice tower within the RA-1 zone on land owned by Theresa Haury (Robert Tripp), in Veyo; Parcel 7140-A-1-N-NW. Applicant Intellisites LLC/Debbie Depompei for one (1) year based on the following findings:

- 1. The request has been previously approved.**
- 2. The site meets 10-21 Wireless Telecommunication Facilities chapter of Washington County Code.**
- 3. Public Utilities are a conditional use in the RA-1 zone.**

Commissioner Cropper SECONDED. Chairman Wilson called for discussion on the motion. There being none he called for a vote. The motion carried with six (6) Commissioners voting in favor.

II. CONDITIONAL USE PERMIT EXTENSION. Review a request for a Gravel Pit located east of Highway 91 in Section 2, T43S, R18W, SLB&M in the OSC-20 zone. The applicant is Kay Jean Mathews-Hale/Red Rock Warriors, Inc.

Mr. Messel reported the applicant is requesting a conditional use permit extension for an existing gravel pit operation on SITLA land located on Utah Hill on the east side of Old Highway 91. The site is approximately 20 acres. The State Trust Lands program has benefitted from mineral development. The General Plan recommends that both agencies identify the highest and best use of the land. The plan provides for sand and gravel quarry sites for building and development activity in the County. Activity has been minimal but the applicant would like to keep the conditional use active.

Recommendation:

Staff has reviewed and recommends that the Planning Commission approve the conditional use permit extension for the gravel pit for 1 year based on the following findings:

1. Gravel Pits area conditional use in the OSC (Open Space Conservation) zone.
2. The use has been approved in previous years.
3. The site meets any applicable Washington County requirements.

Mr. Messel stated he spoke with Kay Jean Mathews-Hale and she was unable to attend the meeting. She indicated they wanted to keep the permit active although there has not been a lot of activity in the last year.

MOTION: Chairman Wilson called for a vote to approve the findings recommended and discussed. Motion carried with all six (6) Commissioners voting in favor.

Commissioner Stucki asked if the previous conditions required a shaker board. Mr. Messel answered no. It was determined that requirement was on another project.

MOTION: Commissioner Stucki MOVED to approve the conditional use permit extension request for a Gravel Pit located east of Highway 91 in Section 2, T43S, R18W, SLB&M in the OSC-20 zone. The applicant is Kay Jean Mathews-Hale/Red Rock Warriors, Inc. for one (1) year based on the following findings:

1. Gravel Pits area conditional use in the OSC (Open Space Conservation) zone.
2. The use has been approved in previous years.
3. The site meets any applicable Washington County requirements.

Conditions:

1. The applicant must have and submit a current lease with SITLA.
2. The use must comply with the State EPA requirements.
3. The site will have on site restroom facilities.
4. No explosives will be stored on site that will be utilized in the mining operation.

Commissioner Everett SECONDED. Chairman Wilson called for discussion on the motion. Commissioner Ford asked about the condition of no explosives being on site and wondered if that should be included. It was decided to include the previous conditions in the motion. Commissioners Stucki and Everett agreed. Chairman Wilson then called for a vote. The motion carried with six (6) Commissioners voting in favor.

III. CONDITIONAL USE PERMIT. Request for Gooseberry Mesa Yurts. Parcel 2163-C-NP-HV. Zoned OST-20; Gooseberry Mesa LLC/Kenny Jones, applicants.

Mr. Messel reported Gooseberry Mesa LLC, owners of parcel 2163-C-NP-HV, is requesting conditional use approval to erect up to 4 Yurts on their property. The yurts could then be rented on a daily/nightly basis. A Yurt is a portable structure much like those used by nomadic tribes in Mongolia over 2000 years ago. It is canvas or vinyl wrapped over a wood lattice frame. The domed, tent like structure sits on a wood deck... they are built to withstand 100 mph winds. The Washington County General Plan states, "Trails have become an important part of the exceptional quality of life and livability of Washington County and are a major draw for tourists and residents alike." The following is from the letter submitted with the application. "Overlooking Zion National Park and the Smithsonian Butte, Gooseberry Mesa has some of the best views of any mountain bike destination in the world. The 50 miles of single track located on top of, and below, the mesa have been featured in all the top mountain biking magazines." There are numerous yurts located throughout Utah and Colorado that provide a unique alternative to traditional camping or a hotel. The Utah Department of Natural Resources website has a page dedicated to yurt facilities in state parks <http://www.stateparks.utah.gov/acitivities/camping/yurts>. There are yurts in East Canyon State Park, Goblin Valley State Park, and Rockport State Park. The applicant states in the attached letter, "Our goal is to keep the area primitive and pristine while giving our guests a warm and dry stay. The Yurts will sleep up to 8

people on bunks and cots. Guests will provide their own solar showers, water, wood, food, and bedding or pay an additional fee for us to provide them. There will be no wood gathering on the mesa and we will have a strict pack it in, pack it out policy." A port-a-potty will be provided and service will be on an as needed basis. The applicants hope to build a permanent toilet facility in the future. There will be one yurt at first, with the possibility of having up to four.

Update and Recommendation:

This item was tabled in the September 10, 2013 Planning Commission Meeting. Since then, staff has further researched how other jurisdictions classify and approved projects like Gooseberry Mesa Yurts; classification of structures (permanent and temporary); the Utah Wildland-Urban Interface Code; building and land use code. Staff recommends the Planning Commission approve the conditional use for the Gooseberry Mesa Yurts based on the following findings and conditions:

Findings:

1. The use is in harmony with the character and intent of the OST zone.
2. The use is in harmony with applicable elements of the General Plan.
3. The requested use would provide an approved lodging alternative for tourist, mountain bikers, and outdoor enthusiasts' to enjoy Washington County's trail and back country.
4. Yurts are best classified as a temporary structure.
5. The time frame for leaving the temporary structure up can be approved on a case by case basis under the campground definition and review.
6. The most appropriate way to review the proposal is as a campground.

Conditions:

1. Subject to the adoption of the ordinance amendment adding campgrounds as a conditional use in the OST (Open Space Transition) zone.
2. That the applicant works with staff to ensure compliance with the applicable elements of the Utah Wildland-Urban Interface Code.
3. That the yurts can remain up as long as they are properly maintained; but no longer than the life expectancy of the product.
4. That any future restroom facility must be approved by Washington County Building Department, Ash Creek Special Service District, State of Utah DEQ, and Southwest Utah Public Health Department.

Commissioner Stucki asked if they could approve the request and about the campground ordinance in relation to this request. Typically the commission would not approve anything where an ordinance is not in place.

Mr. Messel reported the ordinance change is proceeding and will go before the County Commission for approval on one of future meetings. Mr. Stucki then asked if they are in a "Catch-22". Mr. Messel stated this approval is subject to the ordinance being passed. The commission can approve the request and once the ordinance is passed the conditional use permit would be issued. If the ordinance is not approved, the applicant would need to come back with a plan to be applicable to the codes. This use fits best in the campground ordinances and will be required to meet the Wildland-Urban Fire Code.

Mr. Stucki asked about time limits on temporary structures. He thought it was in the code they were allowed for up to 90 days. Mr. Messel stated he was not sure if a time limit was included in the current codes. Mr. Clarke stated if it was in the ordinance the time frame would apply to the occupant and not the structure.

A discussion regarding temporary and permanent structures and their differences took place. Mr. Everett voiced concerns with temporary structures. He asked if the structure at some point would need to come down. Mr. Clarke commented that a condition could be that the structure be taken down and removed if the facility ceases to operate.

The use of the yurt being rented on a nightly basis to individuals who would like to stay in them while they are mountain biking, hiking, etc was discussed. The customers would provide all their own water, food, firewood and various other items. The rental would be from one day to a week at most. The Wildland Fire code and fire concerns were also discussed and it was stated that the defensible space would need to be maintained to ensure safety of individuals who may be staying in the yurts. Mr. Messel reported that at some point in time the applicants are considering installing a restroom facility which would need to meet the requirements of entities who would oversee approval of the restroom facility.

Commissioner Stucki stated based on the wind speed, the structure could be very temporary. He liked the idea that it was tied to the campground ordinance.

The discussion continued regarding temporary structures and what classifies a permanent structure. Mr. Gardner, Building Official explained the building code requirements for a permanent structure and a temporary condition. A permanent structure would require a footing/foundation and utility connections.

Mr. Messel reiterated staff has worked on this project and found the best fit the campground ordinance. One of the conditions that could be put in place would be that the yurt must be properly maintained and may remain up for the manufacturers live expectancy.

Commissioner Everett stated he would like to ask the applicant how long the individuals who will rent the yurts be staying. Could they stay for a month?

Kenny Jones, representing Gooseberry Mesa Yurts addressed the commissions concerns and questions. He stated the time length for people staying would be no more than a week to a week and a half. He does not expect the rentals to be more than a night or two. The yurts will be rented by the night.

A discussion regarding the time frame occurred. It was pointed out that with people hauling in their own supplies, the time frame would most likely be short. Mr. Jones stated the yurts would not be rented for more than a month at a time.

Mr. Messel again reviewed the findings and conditions suggested by staff. The commission discussed the findings and conditions.

MOTION: Chairman Wilson called for a vote to approve the findings discussed. Commissioner Stucki moved to approve the findings. Commissioner Everett **SECONDED**. Motion carried with all six (6) Commissioners voting in favor.

MOTION: Chairman Wilson called for a vote to approve the conditions discussed. Commissioner Ford moved to approve the findings. Commissioner Everett **SECONDED**. Motion carried with all six (6) Commissioners voting in favor.

MOTION: Commissioner Ford **MOVED** to approve the conditional use permit request for Gooseberry Mesa Yurts. Parcel 2163-C-NP-HV; Zoned OST-20. Gooseberry Mesa LLC/Kenny Jones, applicants, based on the following facts and conditions:

FINDINGS:

1. The use is in harmony with the character and intent of the OST zone.
2. The use is in harmony with applicable elements of the General Plan.
3. The requested use would provide an approved lodging alternative for tourist, mountain bikers, and outdoor enthusiasts' to enjoy Washington County's trails and back country.
4. Yurts are best classified as a temporary structure.

5. The time frame for leaving the temporary structure up can be approved on a case by case basis under the campground definition and review.
6. The most appropriate way to review the proposal is as a campground.

CONDITIONS:

1. Subject to the adoption of the ordinance amendment adding campgrounds as a conditional use in the OST (Open Space Transition) zone.
2. That the applicant works with staff to ensure compliance with the applicable elements of the Utah Wildland-Urban Interface Code.
3. That the yurts can remain up as long as they are properly maintained; but no longer than the life expectancy of the product.
4. That any future restroom facility must be approved by Washington County Building Department, Ash Creek Special Service District, State of Utah DEQ, and Southwest Utah Public Health Department.
5. A time limit of 30 days maximum for people to rent the yurt.

Commissioner Everett **SECONDED**. Chairman Wilson called for discussion on the motion. There being none he called for a vote. The motion carried with all six (6) Commissioners voting in favor.

IV. PUBLIC HEARING/AMENDED PLAT. Request to amend Dixie Deer Estates Phase 3 plat. Request to make lots 46, 47, 48, and 49 into two (2) lots. Zoned FR-0.5. The applicants are Brenda and Brad Kohler.

Mr. Messel reported the owners of lots 46, 47, 48, and 49 of Dixie Deer Estates #3 have submitted an application to amend the plat; combining the previously mentioned lots into two larger lots to be called Lot 46 and Lot 48. Lot 46 will be .65 acres and Lot 48 will be 1.07 acres in size. The proposed lots meet the minimum half acre lot size requirement. He reviewed the area with the commission.

Recommendation:

Staff has reviewed and recommends that the Planning Commission approve the proposed amended plat based on the following findings:

1. The proposed amended plat is consistent with the General Plan.
2. The fewer lots decrease the use on local services and utilities.
3. The proposed amendment does not negatively impact neighbors and the Dixie Deer Subdivision.
4. The lots meet the requirements of the FR-.05 (Forest Residential) zone.
5. The plat meets the applicable Washington County Codes.
6. There are not any utility easements affected by the proposed amendment.

Commissioner Stucki asked for clarification on the changes to the lots and if there would be any encroachment with the neighbors. Mr. Messel answered there would not be.

MOTION: Chairman Wilson called for a vote to open the public hearing. Commissioner Stucki **MOVED to open the Public Hearing**. Commissioner Everett **SECONDED**. Motion carried with all six (6) Commissioners voting in favor.

Barbara Kohler reported she and her husband are the applicants. She pointed out where her home was located. She explained the reason they are amending the plat. They would like to build a garage and do not have enough space so they are buying 50-feet from the neighbors. They are then combining the lots together to make two lots.

A discussion occurred on the applicants plan for the garage location. They want a garage but in order to meet zoning requirements they need to purchase the property to build where they are proposing because of the elevations of the property and location of the home.

Staff and the commission concurred this was a good way to amend the plat as it would make things clean for any future developments that might occur to the properties.

There were no other public comments.

MOTION: Chairman Wilson called for a vote to close the public hearing. Commissioner Ford MOVED to close the Public Hearing. Commissioner Stucki SECONDED. Motion carried with all six (6) Commissioners voting in favor.

Commissioner Everett asked for clarification on the lot next to this one and any infringement that might occur. Mr. Messel stated the lot is part of the amendment and both lots would increase in size when the amended plat is completed.

Commissioner Everett asked what happens to the septic permits that were approved with these lots. A short discussion regarding the availability of those septic permits ensued but would fall under the Southwest Public Health Department jurisdiction and therefore staff did not have an answer.

The commission discussed findings and conditions of approval for the rezone as follows:

1. The proposed zone change meets the intent of the General Plan.
2. Several adjacent and nearby parcels are zoned commercial.
3. The proposed C-3 rezone is appropriate for this parcel.

MOTION: Chairman Wilson called for a vote to approve the findings discussed. Commissioner Balen MOVED to approve the findings provided. Commissioner Everett SECONDED. Motion carried with all six (6) Commissioners voting in favor.

Commissioner Stucki asked if the neighbors within 500' had to be notified of the change. Mr. Messel answered yes. Staff suggested the applicants send notice to everyone in the plat, which they did. By sending it to everyone in the plat, not everyone on the plat would have to sign the new amended plat. Mr. Messel stated an additional finding could be that the public hearing notice was met.

MOTION: Commissioner Balen MOVED to amend approval of the findings provided. Commissioner Cropper SECONDED. Motion carried with all six (6) Commissioners voting in favor.

MOTION: Commissioner Balen MOVED to approve the request to amend the Dixie Deer Estates Phase 3 combining lots 46, 47, 48, and 49 and creating two lots; zoned FR-0.5 (Forest Residential). Applicants Brenda and Brad Kohler based on the following findings:

1. The proposed amended plat is consistent with the General Plan.
2. The fewer lots decrease the use on local services and utilities.
3. The proposed amendment does not negatively impact neighbors and the Dixie Deer Subdivision.
4. The lots meet the requirements of the FR-.05 (Forest Residential) zone.
5. The plat meets the applicable Washington County Codes.
6. There are not any utility easements affected by the proposed amendment.
7. The Public Hearing and Noticing requirements were met.

Commissioner Ford. SECONDED. Chairman Wilson called for discussion on the motion. There being none he called for a vote. The motion carried with six (6) Commissioners voting in favor.

Commissioner Balen asked to be excused from the meeting and left at 2:45 p.m.

Some additional discussion and clarification regarding yurts took place.

V. STAFF DECISIONS. The Land Use Authority Staff Meeting held on October 1, 2013.

Mr. Messel reported on the Land Use Authority Staff Meeting held on October 1, 2013, which included approval of conditional use permits for single family dwellings for Cody and Kelley Staheli to be built in Enterprise and Kirk Harrison in Pinto; a lot line adjustment for Clark Gubler in the OST-20 zone, and Mark Balen and Michael Fluharty in Pine Valley; and review of Planning Commission items.

The commission also asked that staff provide locations or areas when using the Township, Sections, and Range for projects coming before the commission. Staff agreed to do so.

VI. MINUTES. Consider approval of the minutes of the regular planning commission meetings held on September 10, 2013.

Commissioner Everett stated when Myrna Young spoke she provided information regarding conditions the conditions a person has to meet before they can be considered handicapped. He believed that was an important point and wanted to see that information put in the minutes.

After a short discussion regarding adding the information to the minutes, Ms. Bowers-Irons suggested tabling the minutes to the next meeting in order to add the information requested.

MOTION: Commissioner Cropper MOVED to table the Minutes of September 10, 2013 for additional information to be added regarding the comments from Myrna Young regarding the treatment facility ordinance changes. Commissioner Ford SECONDED. Chairman Wilson called for discussion on the motion. There being none he called for a vote. The motion carried with all six (6) Commissioners voting in favor.

VII. COUNTY COMMISSION ACTION REVIEW. Review of action taken by the County Commission on planning items; County initiated.

The Commission approved the zone change request for Matthew and Paige Gray to C-3 for their property in Central.

Staff and the commission discussed the C-3 and Industrial zones and what is allowed and what would require a conditional use in each zone.

VIII. COMMISSION & STAFF REPORTS. General reporting on various topics; County initiated.

Mr. Clarke reported the Commission will most likely approve the campground ordinance at their next meeting. The ordinance for the residential treatment facilities will be heard at a later date.

Commissioner Ford moved to adjourn the meeting at 3:00 p.m.

Doreen Bowers-Irons, Planning Secretary

Approved: 10 December 2013